

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT PENNSYLVANIA**

**UNITED STATES OF AMERICA**

**vs.**

**JOHN KIRKPARTICK**

**CRIMINAL NO. 04-36 ERIE**

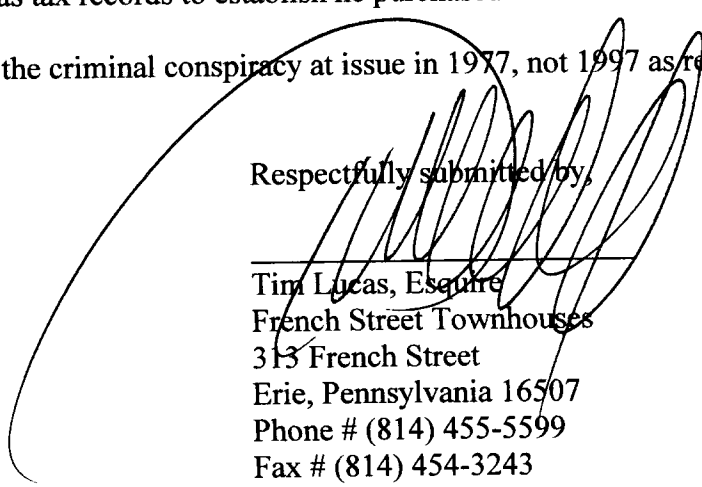
**POSITION OF THE DEFENDANT WITH RESPECT TO SENTENCING  
FACTORS**

**AND NOW**, comes the defendant, by counsel, Tim Lucas, Esquire, and files the following position with respect to sentencing factors:

1. Page 3 – 4 4(b) (i)(i) The defendant acknowledged the Hill Road property was used in the course of the conspiracy. The defendant only acknowledged the Government evidently has sufficient proof based on the search of the McChesney Road property to establish that property was used in the course of the conspiracy. The use of that property was without the defendant's knowledge or participation.
2. Page 5 –11. The defendant cannot acknowledge the amount of the debts since the ledger was maintained by co-defendant Maurice Folley.
3. Page 5 –12. Same answer as number 11.
4. Page 8 – 22. In a subsequent briefing with Jeffrey Artelo's mother is was clear Mr. Kirkpatrick was only at the Artelo residence on one occasion which the defendant acknowledges.
5. Page 9 – 26. The defendant denies ever paying cash to any "mule". The only involvement the defendant ever had or witnessed involved the mother of one of the co-defendants who was paid either in marijuana or methamphetamine but not cash and not by Mr. Kirkpatrick.

6. Page 9 – 28. Mr. Kirkpatrick understands the concept of criminal complicity and criminal conspiracy and the language as contained in paragraph 28 read literally is accurate. On no occasion was Mr. Kirkpatrick personally involved in the distribution of methamphetamine.
7. Page 13 – 58. The defendant attended what was then Bhrend Center, not Gannon University as reflected in the report hence the reason why attendance at Gannon University was not able to be obtained since the defendant never went to Gannon University.
8. Page 16 – 63. Rather than “school tuition” as listed in the report the \$156.00 per month is being paid by the defendant in back Internal Revenue Service payments.
9. Page 16 – 64. The defendant has a checking account at PNC Bank – Airport Office, not Northwest Savings Bank as indicated in the report.
10. Page 17 – 68. The defendant believes this may be a typographical error and the defendant has tax records to establish he purchased his home on Gorman Road long before the criminal conspiracy at issue in 1977, not 1997 as reported.

Respectfully submitted by,

  
\_\_\_\_\_  
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**CRIMINAL NO: 04-36**

**ERIE**

**CERTIFICATE OF SERVICE**

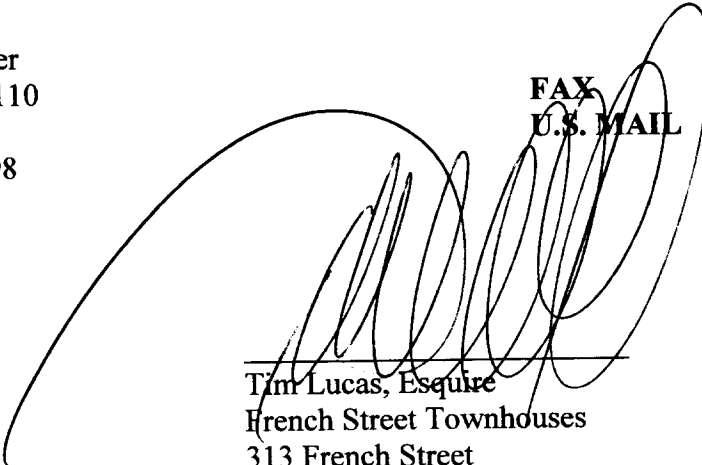
I hereby certify that I am this 12<sup>th</sup>, day of July 2005, serving the foregoing document upon the person and in the manner indicated.

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